

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Jacqueline Nard,
Plaintiff

vs

Case No. 1:06-cv-322
(Weber, Sr. J.; Hogan, M.J.)

Commissioner Social Security,
Defendant

REPORT AND RECOMMENDATION

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) for judicial review of the final decision of the Commissioner of Social Security denying plaintiff's application for supplemental security income benefits. Plaintiff sought and was granted leave to proceed *in forma pauperis*, (docs. 1, 2), and the complaint was subsequently filed on May 31, 2006. Defendant timely filed an answer and a copy of the administrative transcript as required by this Court's Magistrate Judges' General Order Concerning Social Security Appeals. (Docs. 8, 9). The transcript was filed on January 8, 2007.

The Magistrate Judges' General Order Concerning Social Security Appeals requires plaintiff to file a Fact Sheet and Statement of Specific Errors upon which plaintiff seeks reversal of the Commissioner's decision within 30 days of the filing of the transcript. Plaintiff failed to comply with this Order. ON October 4, 2007, the Court issued an Order to Show Cause why this case should not be dismissed for failure to file a Statement of Errors and for lack of prosecution. (Doc. 10). The Show Cause Order made clear that failure to comply with the Court's procedural orders and

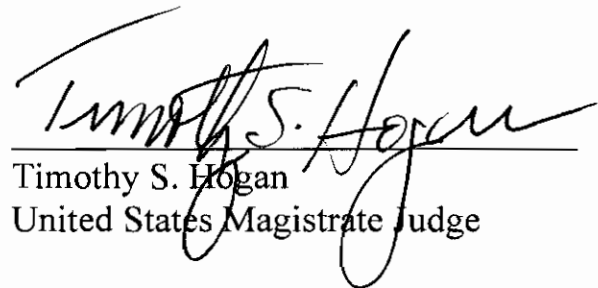
or failure to respond tot he Court's Show Cause Order would result in a recommendation that the action be dismissed for lack of prosecution pursuant to Fed. R. Civ. P. 41(b). (Id.). Rule 41(b) provides in relevant part:

For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

To date, plaintiff has neither filed a Statement of Errors, nor responded to this Court's Show Cause Order. IT IS THEREFORE RECOMMENDED THAT this action be dismissed for lack or prosecution.

Date: _____

1/29/08



Timothy S. Hogan
United States Magistrate Judge

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NOTICE

Attached hereto is the Report and Recommended Decision of the Honorable Timothy S. Hogan, United States Magistrate Judge, which was filed on 1-30-2008. Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten (10) days after being served with this Report and Recommendation. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation are based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten (10) days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).

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<p>1. Article Addressed to:</p> <p>Jacqueline Nard 1305 Madeleine Cir. Cinti, OH 45231</p>		<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery</p>
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
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